

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 00-261
ACTION AGAINST)	
)	
Brian Derdowski)	Notice of Administrative
)	Charges
)	
Respondent.)	

IT IS ALLEGED as follows:

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Commission, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II.
LAW

RCW 42.17.040 (3) states: “Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate elections officer within ten days following the change.”

RCW 42.17.080 (2) states, in part: “At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters...a report containing the information required by RCW 42.17.090: (a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and (b) On the tenth day of the first month after the election...and (c) On the tenth day of

each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.”

RCW 42.17.080 (3) states: “For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, each Friday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

RCW 42.17.080 (4) states, in part: “...As specified in the committee’s statement of organization filed under RCW 42.17.040, the books of account must be open for public inspection as follows: (a) For at least two consecutive hours on the eighth day immediately before the election, between 8:00 a.m. and 8:00 p.m....(b) By appointment for inspections to be conducted at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any other day from the seventh day through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days in the week prior to the election. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.”

RCW 42.17.080 (6) states: “Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday excluding legal holidays, between 8:00 a.m. and 8:00 p.m. as specified in the committees’ statement of organization filed pursuant to RCW 42.17.040...”

RCW 42.17.090 (1) states, in part: “Each report required under RCW 42.17.080 (1) and (2) shall disclose the following: (a) The funds on hand at the beginning of the period; (b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign... (d) all other contributions not otherwise listed or exempted... (f) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report and the amount, date and purpose of such expenditure... (h) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days...”

III. **BACKGROUND**

On November 22, 1999, PDC staff received a complaint against Brian Derdowski from Julie Imperatori. Ms. Imperatori complained that Mr. Derdowski, in his re-election effort for King County Councilman, failed to timely file reports of contributions and expenditures relating to his primary election, and failed to have his books and records open for public inspection despite the fact that she had made an appointment to review these records. Mr. Derdowski lost in the primary election.

PDC staff contacted Mr. Derdowski on November 24, 1999, informing him of the complaint, and asked that he respond by December 8, 1999. On December 8, 1999, Mr. Derdowski notified staff

that he needed an extension to respond. He asked that he be allowed until the end of January 2000 because he was closing down his King County Council office. Staff agreed to this extension of time.

On March 8, 2000, after no response was received at the end of January, staff sent another letter to Mr. Derdowski asking that he respond by March 20, 2000. Mr. Derdowski faxed a response to the complaint on March 31, 2000. On April 12, 2000, PDC staff asked Mr. Derdowski to submit all missing campaign reports and all campaign records for July 1 through December 31, 1999. No response was received, and on two occasions during May 2000, staff told Mr. Derdowski that if he failed to comply with the April 12th request a subpoena would be issued demanding the information. Finally, on June 1, 2000, Mr. Derdowski filed two C-4 reports, and delivered the campaign records that had been requested on April 12, 2000, but failed to file any of the missing C-3 reports showing contributors to his campaign.

IV. **FACTS**

These charges incorporate the Amended Report of Investigation and all exhibits by reference.

Late Filing of Reports (RCW 42.17.040, 42.17.080 and 42.17.090)

Brian Derdowski was a candidate for re-election to the King County Council in the 1999 primary election. Until September 7, 1999, Virginia Sweetland was treasurer for Mr. Derdowski. Because she moved out of the area, she resigned as treasurer and returned all records in her possession to Mr. Derdowski. Mr. Derdowski was required to amend his C-1 registration statement by September 17, 1999, but failed to do so until June 1, 2000, when he listed himself as the treasurer.

Mr. Derdowski timely filed the C-4 report due seven days before the primary. The next day, September 8, 1999, Mr. Derdowski timely filed a C-3 report for a deposit made on September 3,

1999. Those were the last reports filed by Mr. Derdowski until Ms. Imperatori filed her complaint against him. The complaint was filed on November 22, 1999. Mr. Derdowski did not file any additional reports with PDC until June 1, 2000, after PDC staff repeatedly attempted to contact him and assist him with filing the missing reports. Finally, on June 1, 2000, Mr. Derdowski filed two C-4 reports, but failed to file any additional C-3 reports.

The first C-4 report, due October 10, 1999, was filed 233 days late. That report indicated that cash contributions totaling \$19,437 and in-kind contributions of \$485 had been received between September 7 and September 30, 1999. It also indicated that \$19,946 in expenditures had been made during this same time period. Mr. Derdowski also reported \$18,450 in outstanding obligations. The dates of these obligations revealed that \$9,328 of the obligations should have been included on the C-4 report submitted September 7, 1999. However, these obligations were not reported until June 1, 2000.

The second C-4 report, filed June 1, 2000, actually included three reporting periods. Mr. Derdowski was required to file a C-4 report on November 10, 1999, since he received \$1,800 in contributions and spent \$1,541 during the month of October 1999. A report was also due on January 10, 2000 because Mr. Derdowski received \$400 in contributions and spent \$1,200 since the report that should have been filed by November 10, 1999. The third report was due by May 10, 2000, since Mr. Derdowski received \$890 and spent \$900 between February 2000 and April 30, 2000.

The C-4 reports filed on June 1, 2000 indicate that \$22,527 in contributions was received between September 7, 1999 and April 30, 2000. No C-3 reports have been filed to disclose the required detailed information about the contributors, despite several requests by staff that Mr. Derdowski submit these C-3 reports.

Open Campaign Records and PDC Reports (RCW 42.17.080)

Ms. Imperatori said she made an appointment with the Derdowski campaign to view Mr. Derdowski's campaign records and PDC reports. She had given him 24 hours notice. The campaign staff set an appointment on September 10, 1999, at the Derdowski campaign headquarters, from 1:00 p.m. to 3:00 p.m. When Ms. Imperatori arrived for the appointment, someone on the Derdowski campaign staff locked the door so she could not enter the office. As she was about to leave, Gwen Escher-Derdowski, Brian Derdowski's wife, came from the back of the building holding two small binders. Ms. Derdowski asked Ms. Imperatori to go to a restaurant down the street to view the documents. Ms. Derdowski told Ms. Imperatori that the books and records were to be available between 10:00 a.m. and noon, even though someone on the Derdowski campaign staff had set the appointment for 1:00 p.m.

When Ms. Imperatori viewed the documents, she discovered that they were incomplete. No cash receipts journal was available, some bank statements were missing, no bank reconciliation documents were produced, cancelled checks were not available, and vendor invoices were incomplete. In addition, no PDC reports were available for Ms. Imperatori to review.

Mr. Derdowski responded to Ms. Imperatori's allegations by stating that PDC reports were available at King County and were readily available to Ms. Imperatori through those means. Mr. Derdowski claimed that no cash receipts journal was available, since "campaign cash receipts were negligible." (Mr. Derdowski deposited over \$8,000 on September 8, 1999. This C-3 report has yet to be filed.) Mr. Derdowski also claimed that bank statements provided to Ms. Imperatori provided adequate documentation. Mr. Derdowski also said that the treasurer maintained cancelled checks (Mr. Derdowski became his own treasurer on September 7, 1999 when Virginia Sweetland resigned.)

V. **CONCLUSION**

Staff alleges, based on the facts specified in Section IV, that Brian Derdowski violated **RCW 42.17.040** by failing to file an amended C-1 registration statement within ten days of Virginia Sweetland's resignation, indicating that he was his own campaign treasurer.

Staff alleges that Brian Derdowski intentionally violated **RCW 42.17.080 and 42.17.090** by failing to timely file reports of contributions and expenditures (PDC form C-4) and by failing to file detailed reports of contributions received (PDC form C-3) as detailed below:

Mr. Derdowski failed to timely file the following C-4 reports:

<u>Date Due</u>	<u>Date Filed</u>	<u>Days Late</u>	<u>Contributions</u>	<u>Expenditures</u>
10/10/99	6/1/00	233	\$19,437	\$19,946
11/10/99	6/1/00	203	1,800	1,541
1/10/00	6/1/00	142	400	1,200
5/10/00	6/1/00	21	<u>890</u>	<u>900</u>
Total			\$22,527	\$23,587

Mr. Derdowski also failed to timely report \$9,328 in outstanding debts. These obligations were made in August 1999, reportable on September 7, 1999, but not reported until June 1, 2000.

Mr. Derdowski failed to file C-3 reports. As indicated above, Mr. Derdowski received \$22,527 between September 8, 1999 and April 30, 2000. No C-3 reports have been submitted to provide detailed information about the contributors.

Mr. Derdowski has been in public office for several years, having run several campaigns. He is aware of the reporting that is required as a candidate. Even after Ms. Imperatori filed the complaint, Mr. Derdowski failed to file any of the missing reports until after PDC staff repeated

Brian Derdowski
Notice of Administrative Charges
Page 8

the requests for him to do so. Some reports are still missing, and PDC staff has repeatedly asked Mr. Derdowski to submit those reports as well. Those requests have been ignored.

Finally, staff is alleging a violation of **RCW 42.17.080** by Mr. Derdowski for failing to have campaign records and PDC reports available, even though an appointment had been properly made to view these documents.

RESPECTFULLY SUBMITTED this _____ day of _____, 2000.

Susan Harris
Assistant Director